

only \$5,000 plus the interest which accrued thereon until the end of the holding period, because the notice of levy served on April 2, 1992, attached only to those funds on deposit at the time the notice was served and not to any subsequent deposits.

Example 3. The facts are the same as in *Example 1* except that at the time the notice of levy is served on X Bank, A's savings account contains \$50,000. On April 24, 1992, X Bank must surrender \$10,000, which is the amount of the levy. The levy will not apply to any interest that accrues on the deposit during the 21-day holding period, because the entire amount of the levy is satisfied by the deposits existing at the time the levy is served.

Example 4. The facts are the same as in *Example 1* except that the amount of the levy is \$5,002. Under the terms of A's contract with the bank, the account will earn more than \$2 of interest during the 21-day holding period. On April 24, 1992, X Bank must surrender \$5,002 to the district director. The remaining interest which accrued during the 21-day holding period is not subject to the levy.

Example 5. On September 3, 1992, A opens a \$5,000 six-month certificate of deposit account with X Bank. Under the terms of the account, the depositor must forfeit up to 30 days of interest on the account in the event of early withdrawal. On January 4, 1993, a notice of levy for an unpaid income tax assessment due from A in the amount of \$10,000 is served with respect to A's certificate of deposit account. On January 26, 1993, the bank must surrender \$5,000 plus the interest which accrued on the account through January 25, 1993, minus the penalty of 30 days of interest as provided in the deposit agreement.

Example 6. Same facts as in *Example 5* except that the notice of levy is served on X Bank on February 15, 1993. The certificate matures on March 2, 1993. On March 8, X Bank must surrender \$5,000 plus the interest that accrued on the certificate without any reduction for penalties.

(d) *Notification to the district director of errors with respect to levied upon bank accounts—(1) In general.* If a depositor believes that there is an error with respect to the levied upon account which the depositor wishes to have corrected, the depositor shall notify the district director to whom the assessment is charged by telephone to the telephone number listed on the face of the notice of levy in order to enable the district director to conduct an expeditious review of the alleged error. The district director may require any supporting documentation necessary to the review of the alleged error. The notification by telephone provided for in this sec-

tion does not constitute or substitute for the filing by a third party of a written request under § 301.6343-1(b)(2) for the return of property wrongfully levied upon.

(2) *Disputes regarding the merits of the underlying assessment.* This section does not constitute an additional procedure for an appeal regarding the merits of an underlying assessment. However, if in the judgment of the district director a genuine dispute regarding the merits of an underlying assessment appears to exist, the district director may request an extension of the 21-day holding period.

(3) *Notification of errors from sources other than the depositor.* The district director may take action to release the levy on the bank account based on information obtained from a source other than the depositor, including the bank in which the account is maintained.

(e) *Effective date.* These provisions are effective with respect to levies issued on or after January 4, 1993.

[T. D. 8466, 58 FR 18, Jan. 4, 1993]

§ 301.6333-1 Production of books.

If a levy has been made or is about to be made on any property or rights to property, any person, having custody or control of any books or records containing evidence or statements relating to the property or rights to property subject to levy, shall, upon demand of the internal revenue officer who has made or is about to make the levy, exhibit such books or records to such officer.

§ 301.6334-1 Property exempt from levy.

(a) *Enumeration.* In addition to exemptions allowed as a matter of Internal Revenue Service policy, there shall be exempt from levy—

(1) *Wearing apparel and school books.* Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of his family. Expensive items of wearing apparel, such as furs, which are luxuries and are not necessary for the taxpayer or for members of his family, are not exempt from levy.

(2) *Fuel, provisions, furniture, and personal effects.* So much of the fuel, provisions, furniture, and personal effects in

the taxpayer's household, and of the arms for personal use, livestock, and poultry of the taxpayer, that does not exceed \$2,500 in value.

(3) *Books and tools of a trade, business or profession.* So many of the books and tools necessary for the trade, business, or profession of an individual taxpayer as do not exceed in the aggregate \$1,250 in value.

(4) *Unemployment benefits.* Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia, or of the Commonwealth of Puerto Rico.

(5) *Undelivered mail.* Mail, addressed to any person, which has not been delivered to the addressee.

(6) *Certain annuity and pension payments.* Annuity or pension payments under the Railroad Retirement Act (45 U.S.C. chapter 9), benefits under the Railroad Unemployment Insurance Act (45 U.S.C. chapter 11), special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 562), and annuities based on retired or retainer pay under chapter 73 of title 10 of the United States Code.

(7) *Workmen's compensation.* Any amount payable to an individual as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.

(8) *Judgments for support of minor children.* If the taxpayer is required under any type of order or decree (including an interlocutory decree or a decree of support pendente lite) of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of his minor children, so much of his salary, wages, or other income as is necessary to comply with such order or decree. The taxpayer must establish the amount necessary to comply with the order or decree. The district director is not required to release a levy until such time as he is satisfied that

the amount to be released from levy will actually be applied in satisfaction of the support obligation. The district director may make arrangements with a delinquent taxpayer to establish a specific amount of such taxpayer's salary, wage, or other income for each pay period which shall be exempt from levy. Any request for such an arrangement shall be directed to the Chief, Special Procedures Staff, for the internal revenue district in which the taxpayer resides. Where the taxpayer has more than one source of income sufficient to satisfy the support obligation imposed by the order or decree, the amount exempt from levy may at the discretion of the district director be allocated entirely to one salary, wage, or source of other income or be apportioned between the several salaries, wages, or other sources of income.

(9) *Minimum exemption for wages, salary, and other income.* Amounts payable to or received by the taxpayer as wages or salary for personal services, or as other income, to the extent provided in § 301.6334-2 through § 301.6334-4.

(10) *Certain service-connected disability payments.* Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code (U.S.C.)) disability benefit under—

(i) Subchapters II (wartime disability compensation), III (wartime death compensation), IV (peacetime disability compensation), V (peacetime death compensation), or VI (general compensation provisions) of chapter 11 of title 38, U.S.C.; or

(ii) Chapters 13 (dependency and indemnity compensation for service commenced deaths), 21 (specially adapted housing for disabled veterans), 23 (burial benefits), 31 (vocational rehabilitation), 32 (post-Vietnam era veterans' educational assistance), 34 (veterans' educational assistance), 35 (survivors' and dependents' educational assistance), 37 (home, condominium, and mobile home loans), or 39 (automobiles and adaptive equipment for certain disabled veterans and members of the armed forces) of title 38, U.S.C.

(11) *Certain public assistance payments.* Any amount payable to an individual as a recipient of public assistance under—

(i) Title IV or title XVI (relating to supplemental security income for the aged, blind, and disabled) of the Social Security Act (42 U.S.C. 301 *et seq.*); or

(ii) State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

(12) *Assistance under Job Training Partnership Act.* Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 *et seq.*) from funds appropriated pursuant to such Act.

(13) *Principal residence exempt in absence of certain approval or jeopardy.* Except to the extent provided in section 6334(e), the principal residence (within the meaning of section 1034) of the taxpayer whose tax liability is being sought to be collected upon.

(b) *Appraisal.* The internal revenue officer seizing property of the type described in section 6334(a) shall appraise and set aside to the owner the amount of such property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, such officer shall summon three disinterested individuals who shall make the valuation.

(c) *Other property.* No other property or rights to property are exempt from levy except the property specifically exempted by section 6334(a). No provision of a State law may exempt property or rights to property from levy for the collection of any Federal tax. Thus, property exempt from execution under State personal or homestead exemption laws is, nevertheless, subject to levy by the United States for collection of its taxes.

(d) *Levy allowed on principal residence.* The principal residence of the taxpayer is not exempt from levy if—

(1) A district director or an assistant district director personally approves, in writing, the levy on such property; or

(2) The district director determines that the collection of tax is in jeopardy.

(e) *Inflation adjustment.* For any calendar year beginning after December 31, 1997, each dollar amount referred to in paragraphs (a)(2) and (3) of this section will be increased by an amount

equal to the dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year (substituting “calendar year 1996” for “calendar year 1992” in section 1(f)(3)(B)). If any dollar amount as adjusted is not a multiple of \$10, the dollar amount will be rounded to the nearest multiple of \$10 (rounding up if the amount is a multiple of \$5).

(f) *Effective date.* Generally, these provisions are applicable with respect to levies made on or after July 1, 1989. However, any reasonable attempt by a taxpayer to comply with the statutory amendments addressed by the regulations in this section prior to February 21, 1995, will be considered as meeting the requirements of the regulations in this section. In addition, paragraphs (a)(2), (3), (11)(i) and (e) of this section are applicable with respect to levies issued after December 31, 1996.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7180, 37 FR 7319, Apr. 13, 1972; T.D. 7182, 37 FR 7887, Apr. 21, 1972; T.D. 7620, 44 FR 27988, May 14, 1979; T.D. 8568, 59 FR 53088, Oct. 21, 1994; T.D. 8725, 62 FR 39117, July 22, 1997]

§ 301.6334-2 Wages, salary, and other income.

(a) *In general.* Under section 6334 (a)(9) and (d) certain amounts payable to or received by a taxpayer as wages, salary, or other income are exempt from levy. This section describes the income of a taxpayer that is eligible for the exemption from levy (paragraph (b) of this section) and how exempt amounts are to be paid to the taxpayer (paragraph (c) of this section). Section 301.6334-3 describes that sum that will be exempt from levy for each of the taxpayer's pay periods. Pay periods are described in § 301.6334-3. For the amounts exempt from levy, see § 301.6334-3.

(b) *Eligible taxpayer income.* Only wages, salary, or other income payable to the taxpayer after the levy is made on the payor may be exempt from levy under section 6334(a)(9). No amount of wages, salary, or other income that is paid to the taxpayer before levy is made on the payor will be so exempt from levy under section 6334(a)(9). The provisions of this paragraph (b) may be illustrated by the following example: